APPENDIX A.

Revenue Act of 1932.

"Sec. 111. DETERMINATION OF AMOUNT OF GAIN OR LOSS.

"(a) COMPUTATION OF GAIN OR LOSS.—Except as hereinafter provided in this section, the gain from the sale or other disposition of property shall be the excess of the amount realized therefrom over the adjusted basis provided in section 113(b), and the loss shall be the excess of such basis over the amount realized.

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"(c) RECOGNITION OF GAIN OR LOSS.—In the case of a sale or exchange, the extent to which the gain or loss determined under this section shall be recognized for the purposes of this title, shall be determined under the provisions of section 112."

"Sec. 112. RECOGNITION OF GAIN OR LOSS.

"(a) GENERAL RULE.—Upon the sale or exchange of property the entire amount of the gain or loss, determined under section 111, shall be recognized, except as hereinafter provided in this section.

"(b) EXCHANGES SOLELY IN KIND.—

"(1) *Property Held for Productive Use or Investment.*—No gain or loss shall be recognized if property held for productive use in trade or business or for investment (not including stock in trade or other property held primarily for sale, nor stocks, bonds, notes, choses in action, certificates of trust or beneficial interest, or other securities or evidences of

indebtedness or interest) is exchanged solely for property of a like kind to be held either for productive use in trade or business or for investment.

"(2) *Stock for Stock of Same Corporation.*—No gain or loss shall be recognized if common stock in a corporation is exchanged solely for common stock in the same corporation, or if preferred stock in a corporation is exchanged solely for preferred stock in the same corporation.

"(3) *Stock For Stock on Reorganization.*—No gain or loss shall be recognized if stock or securities in a corporation a party to a reorganization are, in pursuance of the plan of reorganization, exchanged solely for stock or securities in such corporation or in another corporation a party to the reorganization.

"(4) *Same—Gain of Corporation.*—No gain or loss shall be recognized if a corporation a party to a reorganization exchanges property, in pursuance of the plan of reorganization solely for stock or securities in another corporation a party to the reorganization.

"(5) *Transfer to Corporation Controlled By Transferor.*—No gain or loss shall be recognized if property is transferred to a corporation by one or more persons solely in exchange for stock or securities in such corporation, and immediately after the exchange such person or persons are in control of the corporation; but in the case of an exchange by two or more persons this paragraph shall apply only if the amount of the stock and securities received by each is substantially in proportion to his interest in the property prior to the exchange.

"(c) GAIN FROM EXCHANGES NOT SOLELY IN KIND.—

"(1) If an exchange would be within the provisions of subsection (b) (1), (2), (3), or (5) of this section if it were not for the fact that the property

received in exchange consists not only of property permitted by such paragraph to be received without the recognition of gain, but also of other property or money, then the gain, if any, to the recipient shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property.

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"(e) LOSS FROM EXCHANGES NOT SOLELY IN KIND.—If an exchange would be within the provisions of subsection (b)(1) to (5), inclusive, of this section if it were not for the fact that the property received in exchange consists not only of property permitted by such paragraph to be received without the recognition of gain or loss, but also of other property or money, then no loss from the exchange shall be recognized.

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"(j) DEFINITION OF CONTROL.—As used in this section the term 'control' means the ownership of at least 80 percentum of the voting stock and at least 80 percentum of the total number of shares of all other classes of stock of the corporation."

"Sec. 113. ADJUSTED BASIS FOR DETERMINING GAIN OR LOSS.

"(a) BASIS (UNADJUSTED) OF PROPERTY.—The basis of property shall be the cost of such property; except that—

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"(6) *Tax-Free Exchanges Generally.*—If the property was acquired upon an exchange described in section 112(b) to (e), inclusive, the basis shall be the same as in the case of the property exchanged, decreased in the amount of any money received by the taxpayer and increased in the amount of gain or decreased in the amount of loss to the taxpayer that

was recognized upon such exchange under the law applicable to the year in which the exchange was made. If the property so acquired consisted in part of the type of property permitted by section 112(b) to be received without the recognition of gain or loss, and in part of other property, the basis provided in this paragraph shall be allocated between the properties (other than money) received, and for the purpose of the allocation there shall be assigned to such other property an amount equivalent to its fair market value at the date of the exchange. This paragraph shall not apply to property acquired by a corporation by the issuance of its stock or securities as the consideration in whole or in part for the transfer of the property to it.

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"(2) *Substituted Basis.*—The term 'substituted basis' as used in this subsection means a basis determined under any provision of subsection (a) of this section or under any corresponding provision of a prior income tax law, providing that the basis shall be determined—

"(A) by reference to the basis in the hands of a transferor, donor, or grantor, or

"(B) by reference to other property held at any time by the person for whom the basis is to be determined."

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"Art. 572. *Exchanges of property.*—In the following cases no gain or loss is recognized:

"(a) If property held for productive use in trade or business or for investment (not including stock in trade or other property held primarily for sale, nor stocks, bonds, notes, choses in action, certificates of trust or beneficial interest, or other securities or evidences of indebtedness or interest) is exchanged solely for property of a like kind to

be held either for productive use in trade or business or for investment. * * *

"(b) If common stock in a corporation is exchanged solely for common stock in the same corporation, or if preferred stock in a corporation is exchanged solely for preferred stock in the same corporation.

"(c) If property, real, personal, or mixed, is transferred to a corporation (1) by one person solely in exchange for stock or securities in such corporation, and immediately after the exchange such person is in control of the corporation, or (2) by two or more persons solely in exchange for stock or securities in such corporation, and if immediately after the exchange such persons are in control of the corporation, and the amount of stock and securities received by each is substantially in proportion to his interest in the property prior to the exchange. See section 112 (j) and article 577 for definition of 'control'.

"*Example:* A owns a patent right worth $25,000 and B a manufacturing plant worth $75,000. A and B organize the X Corporation with a capital stock of $100,000. A transfers his patent right to the X Corporation for $25,000 of its stock; B transfers his plant to the X Corporation for $75,000 of its stock. No gain or loss is recognized from this transaction."

"Art. 573. *Exchanges of property for other property and money.*—If an exchange would fall within the provisions of article 572 but for the fact that the property received in exchange consists not only of property permitted by that article to be received without the recognition of gain, but also of other property or money, the gain, if any, to the recipient shall be recognized, but in an amount not in excess of the sum of the money and the fair market value of the other property. No loss from such an exchange will be recognized. (See section 112(e).)

"*Example:* A in 1932 exchanged real estate which he had purchased in 1921 for $5,000 for other real estate hav-

ing a fair market value of $6,000 and $2,000 in cash. The gain from the transaction, that is, $3,000 is recognized only to the extent of $2,000, the amount which was received in cash. A's taxable income from the exchange is, therefore, $2,000. See article 597 for the basis for determining gain or loss from a subsequent sale."

"Art. 597. *Property acquired upon an exchange.*

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If the property which was acquired upon an exchange described in section 112(c), (d), or (e) (see articles 573 and 575) consisted in part of the type of property permitted by paragraph (1), (2), (3) or (4) of section 112(b) to be received without the recognition of gain or loss, and in part of other property, the basis provided in the first paragraph of this article shall be allocated between the properties (other than money) received. For the purpose of this allocation there shall be assigned to such other property an amount equivalent to its fair market value at the date of the exchange.

Example: A purchased a share of stock in the X Corporation in 1924 for $100. Upon a reorganization of the X Corporation in 1932, A received in place of his stock in the X Corporation a share of stock in the Y Corporation worth $60, a Liberty bond worth $50, and in addition $20 in cash. Under section 112(c)(1), A realized a gain of $30 from the exchange. The basis of the property received in exchange is the basis of the old stock ($100) decreased in the amount of money received ($20) and increased in the amount of gain that was realized ($30) which results in a basis for the property received of $110. This basis of $110 is apportioned between the Liberty bond and the share of stock, the basis of the Liberty bond being its fair market value at the date of the exchange, $50, and of the share of stock, the remainder, $60."